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5 December 1974

3-1

STATINTL

To: GLC/LLM

Re: S. 4016--Presidential Recordings and
Materials Preservation Act

1. It appears from the House floor discussion (attached) that CIA "Watergate" materials will not be affected by S. 4016--if it is ever passed. Early indications that the House had passed the Senate bill and hence it was ready for President's consideration were wrong. House took Senate bill and added a title II to establish a Public Documents Commission and then passed it. Called Senate Government Operations, where S. 4016 was originally considered, and they have no idea what's up since they have not received any word from House. Since Senate passed S. 3418 (Privacy), which includes Commission to study some similar things, i.e., Federal paper, they may accept House add-on without much objection.

2. The powers of the Commission would be quite broad and not very specific. See attached Record p. H11206. It could be trouble.

3. We need to do some intelligence on this pronto.

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Orally briefed and provided copy of
Record to [redacted] 12/9/74

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research-education values, while allowing dispersed recreation use, such as sport fishing, nonmotorized pleasure boating, waterfowl hunting, and other uses which the Secretary determines are compatible with the protection and perpetuation of the unique natural values of the subarea. After appropriate study, breaching of existing dikes may be permitted within the subarea.

(2) Lower Slope-Dispersed Residential Subarea: An area managed to maintain the scenic, soil and watershed, and fish and wildlife values, while allowing dispersed residential occupancy, selective recreation use, and agricultural use.

(3) Upper Timbered Slope and Headlands Subareas: Areas managed to protect the scenic, soil and watershed, and fish and wildlife values while allowing selective recreation and extensive research-educational activities. Timber harvesting activity may occur in these subareas only when the Secretary determines that the preservation of the timber resource is imminently threatened by fire, old age, infestation or similar natural occurrences.

(4) Coastline and Sand Dune-Spit Subareas: Areas managed to protect and maintain the scenic and wildlife values while allowing selective recreation and extensive research-educational activities.

Sec. 4. (a) The boundaries of the Siuslaw National Forest are hereby extended to include all of the lands lying within the Area as described in accordance with section 3 of this Act which are not within the national forest boundaries on the date of enactment of this Act.

(b) Notwithstanding any other provisions of law, any Federal property located on the lands added to the Siuslaw National Forest by this section may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary. Any lands so transferred shall become part of the Siuslaw National Forest.

Sec. 5. (a) Subject to the provisions of subsection (b) of this subsection, the Secretary is authorized to acquire lands, waters, or interests therein within the Area by donation, purchase, exchange, or otherwise.

(b) Within all subareas of the Area except the estuary and associated wetlands subarea, the Secretary may not acquire any land or interest in land without the consent of the owner or owners so long as the owner or owners use such land for substantially the same purposes and in the same manner as it was used and maintained on June 1, 1974: *Provided, however,* That the Secretary may acquire any land or interest in land without the consent of the owner or owners when such land is in imminent danger of being used for different purposes or in a different manner from the use or uses existing on June 1, 1974. The Secretary shall publish, within one hundred and eighty days of the enactment of this Act, guidelines which shall be used by him to determine what constitutes a substantial change in land use or maintenance for the non-federally-owned lands within the Area. Within the estuary and associated wetlands subarea the Secretary may acquire any land or interest in land without the consent of the owner or owners at any time, after public hearing.

(c) At least thirty days prior to any substantial change in the use or maintenance of any non-federally-owned land within the Area, the owner or owners of such land shall provide notice of such proposed change to the Secretary or his designee, in accordance with such guidelines as the Secretary may establish.

Sec. 6. Notwithstanding the provisions of clause 7(a)(1) of the Act of September 3, 1964 (78 Stat. 903), as amended, moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of any lands, waters, or interests

therein within the area added to the Siuslaw National Forest by this Act.

Sec. 7. The lands within the Area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

Sec. 8. (a) The Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770), shall establish an advisory council for the Area, and shall consult on a periodic and regular basis with such council with respect to matters relating to management of the Area. The members of the advisory council, who shall not exceed eleven in number, shall serve for the individual staggered terms of three years each and shall be appointed by the Secretary as follows—

(1) a member to represent each county in which a portion of the Area is located, each such appointee to be designated by the respective governing body of the county involved;

(2) a member appointed to represent the State of Oregon, who shall be designated by the Governor of Oregon; and

(3) not to exceed eight members appointed by the Secretary from among persons who, individually or through association with national or local organizations, have an interest in the administration of the Area.

(b) The Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

(c) The members shall not receive any compensation for their services as members of the advisory council, but they shall be reimbursed for travel expenses and shall be allowed, as appropriate, per diem or actual subsistence expenses.

(a) In addition to his consultation with the advisory council, the Secretary shall seek the views of other private groups, individuals, and the public, and shall seek the view and assistance of, and cooperate with, all other Federal, State, and local agencies with responsibilities for zoning, planning, migratory fish, waterfowl, and marine animals, water, and natural resources, and all nonprofit agencies and organizations which may contribute information or expertise about the resources, and the management, of the Area, in order that the knowledge, expertise and view of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Area and its various subareas for the benefit of the public.

Sec. 9. The Secretary shall cooperate with the State of Oregon and political subdivisions thereof in the administration of the Area and in the administration and protection of lands within and adjacent to the Area owned or controlled by the State or political subdivisions thereof. Nothing in this Act shall deprive the State of Oregon or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the Area consistent with the provisions of this Act, or of its right to tax persons, corporations, franchises or other non-Federal property, in or on the lands or waters within the Area.

The Clerk read the amendment to the Senate amendment, as follows:

In section 3(c)(3) strike out "Timber harvesting activity may occur in these subareas only when the Secretary determines that the preservation of the timber resource is imminently threatened by fire, old age, infestation or similar natural occurrences," and insert "Timber harvesting activity may occur in these subareas only when the Secretary determines that such harvesting is to be conducted in connection with research activities or that the preservation of the timber resource is imminently threatened by fire, old age, infestation, or similar natural occurrences."

The Senate amendment as amended was concurred in.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3(b) of rule 27, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule 15.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT

Mr. BRADEMAS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 4016) to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes, as amended.

The Clerk read as follows:

S. 4016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Recordings and Materials Preservation Act".

TITLE I—PRESERVATION OF PRESIDENTIAL RECORDINGS AND MATERIALS

DELIVERY AND RETENTION OF CERTAIN PRESIDENTIAL MATERIALS

SEC. 101. (a) Notwithstanding any other law or any agreement or understanding made pursuant to section 2107 of title 44, United States Code, any Federal employee in possession shall deliver, and the Administrator of General Services (hereinafter in this title referred to as the "Administrator") shall receive, obtain, or retain, complete possession and control of all original tape recordings of conversations which were recorded or caused to be recorded by any officer or employee of the Federal Government and which—

(1) involve former President Richard M. Nixon or other individuals who, at the time of the conversation, were employed by the Federal Government;

(2) were recorded in the White House or in the office of the President in the Executive Office Buildings located in Washington, District of Columbia; Camp David, Maryland; Key Biscayne, Florida; or San Clemente, California; and

(3) were recorded during the period beginning January 20, 1969, and ending August 9, 1974.

(b) (1) Notwithstanding any other law or any agreement or understanding made pursuant to section 2107 of title 44, United States Code, the Administrator shall receive, retain, or make reasonable efforts to obtain, complete possession and control of all papers, documents, memorandums, transcripts, and other objects and materials which constitute the Presidential historical materials of Richard M. Nixon, covering the period beginning January 20, 1969, and ending August 9, 1974.

(2) For purposes of this subsection, the

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became necessary for the committee to devote an unusual amount of time and funds to that investigation, as a result of which the committee has expended all available moneys and the committee staff has not been paid for the last month.

The committee staff has been dramatically reduced with the conclusion of the impeachment inquiry.

There are only approximately four persons left in low-paid positions from the impeachment staff. Those persons are devoting their time and efforts to abandoning the office space which they had temporarily, and to preparing the virtually innumerable documents to be sent to the Archives. These moneys simply will be moneys needed by the committee for its usual work.

This resolution was brought before the Subcommittee on Accounts by the chairman (Mr. ROBINO) and the ranking member (Mr. HUTCHINSON) of the Committee on the Judiciary. It was unanimously reported out of the Subcommittee on Accounts and out of the Committee on House Administration.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I will be happy to yield to my friend, the gentleman from Iowa.

Mr. GROSS. I thank the gentleman.

Does the gentleman have in hand or in mind the total amount of expenditures on the part of the committee for this year?

Mr. THOMPSON of New Jersey. Yes, the gentleman does. The figure is \$2,669,658.15.

Mr. GROSS. I thank the gentleman.

Mr. THOMPSON of New Jersey. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR THE COMMITTEE ON RULES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1406 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1406

Resolved, That for the further expenses in carrying out its duties during the Ninety-third Congress, the Committee on Rules is authorized to incur such expenses (not in excess of \$2,000) as it deems advisable. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, and signed by the chairman thereof.

SEC. 2. Funds authorized by the resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 1406 is designed to carry out the needs for the remainder of this Congress of the Committee on Rules in the amount of \$2,000.

Their total expenditure to date, I will say in anticipation of a question from my friend, the gentleman from Iowa, is \$4,379.43.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. YATES. Mr. Speaker, on November 26 I am reported as not having voted on the rollcall to approve the conference report on the bill making appropriations for the Department of Labor and the Department of Health, Education, and Welfare. I was present. I made out a card indicating that I had voted in favor of the bill.

Mr. Speaker, I am reported as not being present, and I ask unanimous consent that the permanent Record be appropriately corrected.

The SPEAKER. The gentleman's statement will appear in the Record.

Mr. YATES. Mr. Speaker, I recognize that the Chair has said that my statement will appear in the Record, but I have asked unanimous consent that the permanent Record be appropriately corrected.

The SPEAKER. The Chair must say to the gentleman from Illinois that the Chair has consistently adopted the policy that under votes by electronic device the permanent Record may not be corrected. The Chair has stated that the gentleman's statement will be published in the Record, and the Chair cannot, under the circumstances, recognize the gentleman for the unanimous consent request.

Mr. YATES. Will the Chair look into the possibility that an error may be made even under the new system of ours?

The SPEAKER. Since the gentleman states that he cast his vote in the well by a card, it is possible that his vote was not recorded. The matter will be looked into.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS TO FILE A PRIVILEGED REPORT ON H.R. 11929

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that the Committee on Public Works may have until midnight tonight to file a privileged report on H.R. 11929, an act to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ESTABLISHING CASCADE HEAD SCENIC AREA IN THE STATE OF OREGON

Mr. MELCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8352) to establish the Cascade Head Scenic Research Area in the State of Oregon, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That in order to provide present and future generations with the use and enjoyment of certain ocean headlands, rivers, streams, estuaries, and forested areas, to insure the protection and encourage the study of significant areas for research and scientific purposes, and to promote a more sensitive relationship between man and his adjacent environment, there is hereby established, subject to valid existing rights, the Cascade Head Scenic-Research Area (hereinafter referred to as "the Area") in the Sluslaw National Forest in the State of Oregon.

SEC. 2. The administration, protection, development, and regulation of use of the Area shall be by the Secretary of Agriculture (hereinafter referred to as the "Secretary") in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best contribute to attainment of the purposes of this Act.

SEC. 3. (a) The boundaries of the Area, and the boundaries of the subareas included therein, shall be those shown on the map entitled "Proposed Cascade Head Scenic-Research Area", dated June 1974, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture: *Provided*, That from time to time, the Secretary may, after public hearing or other appropriate means for public participation, make adjustments in the boundaries of subareas to reflect changing natural conditions or to provide for more effective management of the Area and each of the subareas in accordance with the purposes and provisions of this Act.

(b) As soon as practicable after the enactment of this Act, the Secretary shall, with provisions for appropriate public participation in the planning process, develop a comprehensive management plan for the Area. Said plan shall prescribe specific management objectives and management controls necessary for the protection, management, and development of the Area and each of the subareas established pursuant to subsection (c) hereof.

(c) Within the Area, the following subareas shall be established and shall be managed in accord with the following primary management objectives which shall be supplemental to the general management objectives applicable to the entire Area:

(1) Estuary and Associated Wetlands Subarea: An area managed to protect and perpetuate the fish and wildlife, scenic, and

term "historical materials" has the meaning given it by section 2101 of title 44, United States Code.

AVAILABILITY OF CERTAIN PRESIDENTIAL MATERIALS

SEC. 102. (a) None of the tape recordings or other materials referred to in section 101 shall be destroyed, except as may be provided by law.

(b) Notwithstanding any other provision of this title, any other law, or any agreement or understanding made pursuant to section 2107 of title 44, United States Code, the tape recordings and other materials referred to in section 101 shall, immediately upon the date of enactment of this title, be made available, subject to any rights, defenses, or privileges which the Federal Government or any person may invoke, for use in any judicial proceeding or otherwise subject to court subpoena or other legal process. Any request by the Office of Watergate Special Prosecution Force, whether by court subpoena or other lawful process, for access to such recordings or materials shall at all times have priority over any other request for such recordings or materials.

(c) Richard M. Nixon, or any person whom he may designate in writing, shall at all times have access to the tape recordings and other materials referred to in section 101 for any purpose, subject to the regulations which the Administrator shall issue pursuant to section 104.

(d) Any agency or department in the executive branch of the Federal Government shall at all times have access to the tape recordings and other materials referred to in section 101 for current lawful Government use, subject to the regulations which the Administrator shall issue pursuant to section 104.

COMPENSATION

SEC. 103. If any court of the United States decides that any provision of this title has deprived any individual of private property without just compensation, then there shall be paid out of the general fund of the Treasury of the United States such amount or amounts as may be adjudged just by an appropriate court of the United States. However, the provisions of this title shall not be construed as making any determination with respect to any private property right of title to tape recordings and other materials referred to in section 101, if any such right existed prior to the date of enactment of this title.

REGULATIONS TO PROTECT CERTAIN TAPE RECORDINGS AND OTHER MATERIALS

SEC. 104. The Administrator shall issue at the earliest possible date such regulations as may be necessary to assure the protection of the tape recordings and other materials referred to in section 101 from loss or destruction, and to prevent access to such recordings and materials by unauthorized persons. Custody of such recordings and materials shall be maintained in Washington, District of Columbia, or its metropolitan area, except as may otherwise be necessary to carry out the provisions of this title.

REGULATIONS RELATING TO PUBLIC ACCESS

SEC. 105. (a) The Administrator shall, within ninety days after the date of enactment of this title, submit to each House of the Congress a report proposing and explaining regulations that would provide public access to the tape recordings and other materials referred to in section 101. Such regulations shall take into account the following factors:

(1) the need to provide the public with the full truth, at the earliest reasonable date, of the abuses of governmental power popularly identified under the generic term "Watergate";

(2) the need to make such recordings and materials available for use in judicial proceedings;

(3) the need to prevent general access, except in accordance with appropriate procedures established for use in judicial proceedings, to information relating to the Nation's security;

(4) the need to protect every individual's right to a fair and impartial trial;

(5) the need to protect any party's opportunity to assert any legally or constitutionally based right or privilege which would prevent or otherwise limit access to such recordings and materials;

(6) the need to provide public access to those materials relating to the Presidency of Richard M. Nixon which have general historical significance, and which are not likely to be related to the need described in paragraph (1), in a manner which is consistent with procedures which have been used to provide public access to materials of former Presidents; and

(7) the need to give Richard M. Nixon, or his heirs, for his sole custody and use, tape recordings and other materials which are not likely to be related to the need described in paragraph (1) and are not otherwise of general historical significance.

(b) (1) The regulations proposed by the Administrator in the report required by subsection (a) shall take effect upon the expiration of ninety legislative days after the submission of such report, unless such regulations are disapproved by a resolution adopted by either House of the Congress during such period.

(2) The Administrator may not issue any regulation or make any change in a regulation if such regulation or change is disapproved by either House of the Congress under this subsection.

(3) The provisions of this subsection shall apply to any change in the regulations proposed by the Administrator in the report required by subsection (a). Any proposed change shall take into account the factors described in paragraph (1) through paragraph (7) of subsection (a), and such proposed change shall be submitted by the Administrator in the same manner as the report required by subsection (a).

(4) Paragraph (5) is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such it shall be considered as part of the rules of the House, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the House of Representatives to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House.

(5) (A) Any resolution introduced in the House of Representatives under paragraph (1) shall be referred to a committee by the Speaker of the House.

(B) If the committee to which any such resolution is referred has not reported any resolution relating to any regulations or change proposed by the Administrator under this section before the expiration of sixty calendar days after the submission of any such proposed regulation or change, it shall then be in order to move to discharge the committee from further consideration of such resolution.

(C) Such motion may be made only by a person favoring the resolution, and such motion shall be privileged. An amendment to such motion is not in order, and it is not in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(D) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed.

(E) When the committee has reported, or has been discharged from further consideration of, a resolution introduced in the House of Representatives under paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to

the consideration of such resolution. Such motion shall be privileged. An amendment to such motion is not in order, and it is not in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(6) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

(c) The provisions of this title shall not apply, on and after the date upon which regulations proposed by the Administrator take effect under subsection (b), to any tape recordings or other materials given to Richard M. Nixon, or his heirs, pursuant to subsection (a) (7).

JUDICIAL REVIEW

SEC. 106. (a) The United States District Court for the District of Columbia shall have exclusive jurisdiction to hear challenges to the legal or constitutional validity of any provision of this title or of any regulation issued under the authority granted by this title. Such challenge shall be heard by a district court of three judges constituted under the procedures established by section 2284 of title 28, United States Code, with the right of direct appeal to the United States Supreme Court. Any such challenge shall be treated by the district court of three judges and the Supreme Court as a priority matter requiring immediate consideration and resolution.

(b) If, under the procedures established by subsection (a), a judicial decision is rendered that a particular provision of this title, or a particular regulation issued under the authority granted by this title, is unconstitutional or otherwise invalid, such decision shall not affect in any way the validity or enforcement of any other provision of this title or any regulation issued under the authority granted by this title.

PARTICIPATION IN CERTAIN COURT ACTIONS

SEC. 107. The Committee on Government Operations of the Senate and the Committee on House Administration of the House of Representatives may, acting jointly or separately, appoint counsel to intervene in any case or proceeding relating to—

(1) the ownership, custody, use, or compensation for any taking, of tape recordings and other materials referred to in section 101, or any other similar right to or in such recordings and materials; or

(2) any challenge to the legal or constitutional validity of any provision of this title or of any regulation issued under the authority granted by this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 108. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE II—PUBLIC DOCUMENTS COMMISSION

SHORT TITLE

SEC. 201. This title may be cited as the "Public Documents Act".

ESTABLISHMENT OF STUDY COMMISSION

SEC. 202. Chapter 33 of title 44, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3315. Definitions

"For purposes of this section and section 3316 through section 3324 of this title—

"(1) the term 'Federal official' means any individual holding the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, or any officer of the executive, judicial, or legislative branch of the Federal Government;

"(2) the term 'Commission' means the National Study Commission on Records and Documents of Federal Officials; and

"(3) the term 'records and documents' shall include handwritten and typewritten documents, motion pictures, television tapes

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and recordings, magnetic tapes, automated data processing documentation in various forms, and other records that reveal the history of the Nation.

§ 3316. Establishment of Commission

"There is established a commission to be known as the National Study Commission on Records and Documents of Federal Officials.

§ 3317. Duties of Commission

"It shall be the duty of the Commission to study problems and questions with respect to the control, disposition, and preservation of records and documents produced by or on behalf of Federal officials, with a view toward the development of appropriate legislative recommendations and other recommendations regarding appropriate rules and procedures with respect to such control, disposition, and preservation. Such study shall include consideration of—

"(1) whether the historical practice regarding the records and documents produced by or on behalf of Presidents of the United States should be rejected or accepted and whether such practice should be made applicable with respect to all Federal officials;

"(2) the relationship of the findings of the Commission to the provisions of chapter 19 of this title, section 2101 through section 2108 of this title, and other Federal laws relating to the control, disposition, and preservation of records and documents of Federal officials;

"(3) whether the findings of the Commission should affect the control, disposition, and preservation of records and documents of agencies within the Executive Office of the President created for short-term purposes by the President;

"(4) the recordkeeping procedures of the White House Office, with a view toward establishing means to determine which records and documents are produced by or on behalf of the President;

"(5) the nature of rules and procedures which should apply to the control, disposition, and preservation of records and documents produced by Presidential task forces, commissions, and boards;

"(6) criteria which may be used generally in determining the scope of materials which should be considered to be the records and documents of Members of the Congress;

"(7) the privacy interests of individuals whose communications with Federal officials, and with task forces, commissions, and boards, are a part of the records and documents produced by such officials, task forces, commissions, and boards; and

"(8) any other problems, questions, or issues which the Commission considers relevant to carrying out its duties under section 3315 through section 3324 of this title.

§ 3318. Membership

"(A) (1) The Commission shall be composed of seventeen members as follows:

"(A) one Member of the House of Representatives appointed by the Speaker of the House upon recommendation made by the majority leader of the House;

"(B) one Member of the House of Representatives appointed by the Speaker of the House upon recommendation made by the minority leader of the House;

"(C) one Member of the Senate appointed by the President pro tempore of the Senate upon recommendation made by the majority leader of the Senate;

"(D) one Member of the Senate appointed by the President pro tempore of the Senate upon recommendation made by the minority leader of the Senate;

"(E) one Justice of the Supreme Court, appointed by the Chief Justice of the United States;

"(F) one person employed by the Executive Office of the President or the White House Office, appointed by the President;

"(G) three appointed by the President, by

and with the advice and consent of the Senate, from persons who are not officers or employees of any government and who are specially qualified to serve on the Commission by virtue of their education, training, or experience;

"(H) one representative of the Department of State, appointed by the Secretary of State;

"(I) one representative of the Department of Defense, appointed by the Secretary of Defense;

"(J) one representative of the Department of Justice, appointed by the Attorney General;

"(K) the Administrator of General Services (or his delegate);

"(L) the Librarian of Congress;

"(M) one member of the American Historical Association, appointed by the counsel of such Association;

"(N) one member of the Society of American Archivists, appointed by such Society; and

"(O) one member of the Organization of American Historians, appointed by such Organization.

"(2) No more than two members appointed under paragraph (1)(G) may be of the same political party.

"(b) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(c) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves such office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he may continue as a member of the Commission for no longer than the sixty-day period beginning on the date he leaves such office or becomes such an officer or employee, as the case may be.

"(d) Members shall be appointed for the life of the Commission.

"(e) (1) Members of the Commission shall serve without pay.

"(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses under section 5703(b) of title 5, United States Code, except that per diem in lieu of subsistence shall be paid only to those members of the Commission who are not full-time officers or employees of the United States or Members of the Congress.

"(f) The Chairman of the Commission shall be designated by the President from among members appointed under subsection (a) (1) (G).

"(g) The Commission shall meet at the call of the Chairman or a majority of its members.

§ 3319. Director and staff; expert and consultants

"(a) The Commission shall appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316).

"(b) The Commission may appoint and fix the pay of such additional personnel as it deems necessary.

"(c) (1) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332).

"(2) In procuring services under this subsection, the Commission shall seek to obtain the advice and assistance of constitutional

scholars and members of the historical, archival, and journalistic professions.

"(d) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under sections 3315 through 3324 of this title.

§ 3320. Powers of Commission

"(a) The Commission may, for the purpose of carrying out its duties under sections 3315 through 3324 of this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem desirable.

"(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

"(c) The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out its duties under section 3315 through section 3324 of this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

§ 3321. Support services

"(a) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services and assistance as the Commission may request.

"(b) The Archivist of the United States shall provide to the Commission on a reimbursable basis such technical and expert advice, consultation, and support assistance as the Commission may request.

§ 3322. Report

"The Commission shall transmit to the President and to each House of the Congress a report not later than March 31, 1976. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation, administrative actions, and other actions, as it deems appropriate.

§ 3323. Termination

"The Commission shall cease to exist sixty days after transmitting its report under section 3322 of this title.

§ 3324. Authorization of appropriations

"There is authorized to be appropriated such sums as may be necessary to carry out section 3315 through section 3324 of this title."

TECHNICAL AMENDMENT

SEC. 203. The table of sections for chapter 33 of title 44, United States Code, is amended by adding at the end thereof the following new items:

"3315. Definitions.

"3316. Establishment of Commission.

"3317. Duties of Commission.

"3318. Membership.

"3319. Director and staff; experts and consultants.

"3320. Powers of Commission.

"3321. Support services.

"3322. Report.

"3323. Termination.

"3324. Authorization of appropriations."

The SPEAKER. Is a second demanded? Mr. HANSEN of Idaho. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered. There was no objection.

The SPEAKER. The gentleman from Indiana (Mr. BRADEMANS) will be recognized for 20 minutes, and the gentleman from Idaho (Mr. HANSEN) will be recognized for 20 minutes.

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The Chair now recognizes the gentleman from Indiana (Mr. BRADEMAS).

(Mr. BRADEMAS asked and was given permission to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I move to suspend the rules and pass S. 4016 as amended, a bill to preserve the tapes and other materials relating to the Presidency of Richard M. Nixon.

Mr. Speaker, S. 4016, as reported by the Committee on House Administration, includes, as title I, the bill passed by the Senate on October 4, 1974, with minor amendments and, as title II, authority to establish a National Study Commission on Records and Documents of Federal Officials.

I would like to take this opportunity to point out that the Subcommittee on Printing approved S. 4016, as amended, by unanimous voice vote on November 19, 1974, and that the full Committee approved this measure by a unanimous vote of 20 to 0 on November 26, 1974.

Mr. Speaker, I would like to pay a word of special tribute to the gentleman from South Carolina (Mr. GETTYS) the gentleman from New York (Mr. KOCH) the gentleman from New Hampshire (Mr. CLEVELAND) and the gentleman from Idaho (Mr. HANSEN) for their very able assistance in bringing this legislation before the House.

Mr. Speaker, this bill would nullify the agreement of September 7, 1974, between former President Nixon and the Ford administration by providing that the Federal Government retain custody of the tapes and other materials of the Nixon Presidency and insure appropriate access to them. S. 4016 would also establish an independent commission to study the handling of the records and documents of all Federal officials, both elected and appointed.

Mr. Speaker, the disposition of records of public officials has become a matter of immediate importance because of the need to preserve the tapes and other documents relating to the Nixon Presidency.

It is unnecessary to recount here the events of Watergate. We are all aware that these events led to the approval of three articles of impeachment by the Judiciary Committee of the House of Representatives and that in the face of these recommendations, Mr. Nixon resigned from office. We are also aware that these events have resulted in the investigation, prosecution, and conviction of several former high-ranking aides of Mr. Nixon for crimes related to Watergate.

Mr. Speaker, information relating to the impeachment proceedings and information relating to the investigation of criminal actions related to these events are included in the historical records and materials of the Nixon Presidency and although this information is still needed to complete these criminal investigations and although more information is necessary to provide the American people with a full and accurate account of Watergate, the Ford administration negotiated an agreement with former President Nixon which, if implemented, could seriously limit access to the mate-

rial and result in the destruction of a substantial portion of them.

NIXON/SAMPSON AGREEMENT

Mr. Speaker, on September 8, 1974, Philip Buchen, counsel to President Ford, announced an agreement between Mr. Nixon and Arthur Sampson, Administrator of General Services, regarding the disposition of some 42 million documents of the Nixon Presidency.

The agreement included all of Mr. Nixon's Presidential historical materials as defined in section 2101, title 44, United States Code.

The agreement, based on the assumption that the materials are the private property of Mr. Nixon, gives Mr. Nixon complete control over access to them and gives Mr. Nixon an absolute veto power over persons who could review the tapes and records.

In the agreement, Mr. Nixon expresses an intention to donate a substantial portion of these records to the Federal Government, and the agreement provides that they shall be stored at Government expense in a GSA facility in California near San Clemente until a permanent facility can be built.

The agreement allows Mr. Nixon to withdraw any of these materials from deposit, other than the tapes, after 3 years for any purpose. Presumably, this would allow Mr. Nixon to remove and destroy any of the materials if he wishes to do so.

The agreement also allows Mr. Nixon to destroy any of the tapes after September 1, 1979. Further, the gift of the tapes to the Federal Government is based on the condition that "the tapes shall be destroyed at the time of—Mr. Nixon's—death or on September 1, 1984, whichever event shall first occur."

Mr. Speaker, this agreement would give Mr. Nixon total control over access to the materials and records of his administration.

Although the agreement gives Mr. Nixon access to the materials and allows him to destroy any of the records which he chooses, it ignores the public interest in preserving them and providing access to them.

Moreover, the agreement ignores the need for these materials in judicial proceedings, including some in which Federal law enforcement will be frustrated and individual rights impaired if the materials are unavailable to the courts. The agreement also ignores the needs of Congress and executive agencies for continued use of the documents in the process of government.

And, Mr. Speaker, beyond the importance of the Watergate-related materials, the agreement ignores the legitimate public interest in gaining access to the materials of the Nixon Presidency which are of general historical significance. This material includes information which is very valuable to historians, political scientists, and other scholars—material which includes information on the workings of government during the Nixon Presidency.

The agreement has not yet been implemented because of objections raised by the Special Prosecutor and also because of litigation which is now pending

in the U.S. District Court for the District of Columbia. However, once that litigation is completed, the agreement could be implemented and these tapes and materials could face imminent destruction.

PROVISIONS OF S. 4016

Mr. Speaker, the bill we are considering today is an emergency measure intended to nullify the agreement of September 7, 1974, and provide that the Federal Government retain custody of the Nixon tapes and Presidential materials. The bill would also establish a 17-member commission to study the disposition of documents of all Federal officials.

More specifically, the major provisions of the bill include:

First. Notwithstanding any other provision of law or any agreement, the Administrator of GSA shall retain custody and complete control of all tapes, papers, documents and other materials of general historical significance relating to the Presidency of Richard M. Nixon.

The tapes include all conversations recorded, beginning June 20, 1969, and ending August 9, 1974, which involved former President Nixon or any individual who was employed at the time of the conversation by the Federal Government; and were recorded in the White House or the Office of the President in the Old Executive Office Buildings in Washington or in the Presidential Offices at Camp David, Key Biscayne or San Clemente.

The Government would also retain custody of all papers, documents, memoranda, transcripts, and other objects and materials which constitute the "historical" materials of Richard M. Nixon, as defined in section 2101 of title 44, United States Code.

Second. All the tapes and other materials would be immediately available for us in judicial proceedings either by subpoena or other legal process. Requests for the material by the Special Prosecutor would be given priority over other requests for these materials. Production of the materials would, of course, be subject to any rights, defenses, or privileges which the Federal Government or any person may invoke.

Third. Mr. Nixon or any person whom he may designate shall at all times have access to these materials for any purpose.

Fourth. The legislation specifically declares that it takes no position on the question of ownership of these materials prior to enactment; however, if a court does find that any provision of this bill deprives a person of private property right without just compensation, there are to be authorized such funds as may be necessary by an appropriate U.S. court.

Fifth. To guard against the removal or destruction of the tapes or other materials, the bill requires that they be maintained in the metropolitan area of Washington, D.C. Further, all access to the materials would be subject to regulations issued at the earliest possible date by the Administrator of GSA to protect the material from loss or destruction and to prevent access to the material by unauthorized persons.

Sixth. Within 90 days after enactment, the Administrator must submit to

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Congress regulations to provide public access to tapes and other materials. These regulations would insure access to the materials related to Watergate as well as material of general historical significance.

In preparing these regulations, the Administrator shall take into account several factors which include: first, the need to provide a full accounting of the events of "Watergate"; second, the need to make the materials available in judicial proceedings; third, the need to limit general access to material relating to national security; fourth, the need to protect every individual's right to a fair and impartial trial; fifth, the need to protect any individual's opportunity to assert any legal or constitutional right or privilege which may limit general access to the material; sixth, the need to provide public access to material of general historical significance in a manner consistent with procedures that have been used to provide public access to materials of former Presidents; and seventh, the need to return to Mr. Nixon purely personal materials, which are not of general historical value.

A question has been raised whether this bill would allow for the reproduction of the tapes and materials and for their broadcast. It is my understanding, as chairman of the subcommittee that considered this bill and as a member of the full committee, that under section 105 of S. 4016, which directs the Administrator to issue regulations to provide public access to the tapes and materials, reproduction, as well as broadcasting, could be provided for by these regulations.

These regulations shall take effect 90 days after they are submitted to Congress, unless disapproved by resolution of either House of Congress.

If only certain sections are disapproved, that portion of the regulations not affected by such resolution would become effective after 90 days.

Seventh. To insure expeditious resolution of any challenge to the legal or constitutional validity of any provision of this title, the bill provides that any such challenge shall be heard by a three-judge panel of the U.S. District Court for the District of Columbia with a direct appeal to the U.S. Supreme Court. The bill further provides that any challenge and appeal shall be heard as a priority matter.

Eighth. To insure that in any litigation which may be brought as a result of this bill, the public interest is fully represented and the legal and constitutional issues are effectively raised, developed, and presented, the committee adopted an amendment to authorize the House Administration Committee and the Senate Government Operations Committee, acting either jointly or separately, to appoint counsel to intervene in such litigation. This amendment, proposed by Chairman HAYS, followed a suggestion by the distinguished gentlewoman from New York (Ms. HOLTZMAN) and the distinguished gentleman from New York (Mr. KOCH).

HISTORICAL MATERIALS

Mr. Speaker, this bill would provide that the Federal Government would re-

tain custody of the "historical materials" of the Presidency of Richard M. Nixon. The term, "historical materials," is defined in section 2101 of title 44 of the United States Code, which includes "books, correspondence, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, motion pictures, sound recordings and other objects or materials having historical or commemorative value. These materials include not only memorandums, letters and other documents generated and collected by Mr. Nixon, but also material generated by and collected in the White House and Executive Office Buildings, including recordings, papers and memorandums produced and collected by members of Mr. Nixon's staff and by staff members of the offices in the Executive Office of the President.

PRIVATE OWNERSHIP

Mr. Speaker, as I have already mentioned, this legislation takes no position on the question of ownership of these materials prior to enactment of the measure. The committee believed that at this time the resolution of the question of prior ownership was a matter most appropriately left to the judiciary.

However, whether a court determines that the material is the property of the U.S. Government or the private property of some individual, the committee believes that Congress clearly has the authority to pass S. 4016. If the material is the property of the Federal Government, the bill would simply be an exercise of congressional power under article IV of the Constitution to dispose of the property of the United States.

If the material is private property, the legislation would, if necessary, be an exercise of the congressional power of eminent domain and would authorize the payment of "just compensation" if a court of competent jurisdiction should so determine.

PUBLIC DOCUMENTS COMMISSION

Mr. Speaker, title I of this bill is an emergency measure intended to preserve the tapes and other materials of the Nixon Presidency. However, current concern for the preservation of the Nixon material has focussed attention as well on the general question of the handling of records and documents of all Federal officials. Several bills have been introduced in the House and referred to our committee which include proposals for handling the records of Members of the House and Senate as well as those of Presidents.

The Subcommittee on Printing, which I chair, of the House Administration Committee, held 2 days of hearings on these measures. Testimony during these hearings clearly indicated that the issues relating to the handling of the documents of Federal officials are so complex and so varied that a comprehensive study by an independent commission would be warranted to develop specific recommendations for permanent legislation affecting the documents of other Federal officials.

Mr. Speaker, title II of S. 4016, which was unanimously approved by the Committee on House Administration, would

establish a national study commission on records and documents of Federal officials. Title II is similar to a bill which I introduced with the distinguished gentleman from Idaho (Mr. HANSEN), on September 26, 1974.

Title II would establish an independent commission to study the handling of records and documents of all Federal officials. Federal officials would include elected officials, members of the Federal judiciary, and other appointed officers of the Government.

This 17-member commission would be composed of two Members of the House of Representatives; two Senators; three appointees of the President, selected from the public on a bipartisan basis; the Librarian of Congress; one appointee each of the Chief Justice of the United States, the White House, the Secretary of State, the Secretary of Defense, the Attorney General, and the Administrator of General Services; and three other representatives, one each appointed by the American Historical Association, the Society of American Archivists, and the Organization of American Historians.

The commission would be directed to make specific recommendations for legislation and recommendations for rules and procedures as may be appropriate regarding the disposition of documents of Federal officials. The final report is to be submitted to the Congress and the President by March 31, 1976.

Mr. Speaker, title II, I believe, represents a sensible approach to the very difficult question of developing a uniform policy with respect to the handling of records and documents of Federal officials. This commission would be composed of experts in the field, persons with principal responsibility for the disposition of historical records, and I am certain that the findings and recommendations of this commission will be more useful when Congress considers permanent legislation affecting the handling of these documents.

Mr. Speaker, there are several typographical errors in the committee report (93-1507) to S. 4016 which I would like to bring to the attention of my colleagues. The corrections follow:

First. Page 2, paragraph 4, delete "unanimous".

Second. Page 5, paragraph 6, after the words "granted by", insert "Section 552 of title 5, United States Code", and parentheses around "Freedom of Information Act".

Third. Page 6, full paragraph 3, strike "overs" and insert "access".

Fourth. Page 7, first full paragraph, fourth line, insert "are" after "to the materials".

Fifth. Page 7, paragraph 2, change "plots" to "plats".

Sixth. Page 7, delete paragraph 6.

Mr. KOCH. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from New York.

Mr. KOCH. Mr. Speaker, I commend the gentleman for his leadership as subcommittee chairman.

(Mr. KOCH asked and was given permission to revise and extend his remarks.)

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Mr. KOCH. Mr. Speaker, I want to take special note of the fact that the proposal initiated by Congresswoman HOLTZMAN and proposed by me in the full committee to make certain that independent Government counsel would be available to press the right of the Government for possession and title of these materials was adopted by the full committee and is in the bill. I want also to take special note that the mechanism to provide such independent counsel by allowing either the House Administration or Senate Government Operations Committee to engage such counsel, jointly or independently, was devised by the distinguished chairman of the committee (Mr. HAYS).

This provision is important because the Attorney General has already publicly stated that in his opinion the material is the property of the former President. The concern is that in view of the head of the Justice Department having taken such a position, the Justice Department itself might not adequately advocate the position that title is in fact in the United States. By having provided for congressional input and counsel I believe we have reduced the possibility of such a position on the part of the Justice Department.

Mr. YATES. Mr. Speaker, will the gentleman yield for a question?

Mr. BRADEMAs. I yield to the gentleman from Illinois.

Mr. YATES. I think this is a very important bill. I want to commend the gentleman for bringing it out.

I am a little bit concerned about the definition of "historical materials." Is it the intention of the bill that the United States take custody of materials other than historical materials which may belong to Richard M. Nixon?

Mr. BRADEMAs. No. The language to which the gentleman refers, "historical materials," is a term of legislative art and is taken from section 2101 of title 44, United States Code, and include "books, correspondence, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, motion pictures, sound recordings, and other objects or materials having historical or commemorative value."

It should be pointed out, as I said earlier, I would say to my colleague from Illinois, that these materials include not only such materials generated by Mr. Nixon, but also such documents or materials generated or collected by his aides.

It is our purpose to require that the U.S. Government retain complete possession and control of all the documents, tapes, and other materials produced or collected by President Nixon, where such materials concern Government business or public affairs. Materials of a purely personal nature, such as records from Mr. Nixon's private law practice or persons corresponding with his family, would be returned to him, pursuant to section 105(a) (7), to the extent they are found among the materials in the Government's possession. Of course, the Government officials responsible for these materials will be expected to screen them with sufficient care to insure that items to be retained by the Government under the requirements of

this law are not inadvertently turned over to Mr. Nixon.

In the case of tape recordings, for example, if it appears that portions of certain tapes contain conversations solely of a personal nature with Mr. Nixon's family or personal friends in which no Government officials participated and no public affairs were discussed, conceivably these portions of the tapes could be returned to Mr. Nixon through an appropriate process, but extreme care would have to be taken to insure that the historical integrity and authenticity of the original tapes is not impaired so far as all other conversations are concerned.

And, of course, the regulations providing for the transfer of such materials would be subject to congressional review and approval.

Mr. YATES. Mr. Speaker, will the gentleman yield for another question?

Mr. BRADEMAs. Yes.

Mr. YATES. Who will determine under the provisions of the bill whether the materials are historical, and, therefore, subject to custody of the United States, and which materials are not?

Mr. BRADEMAs. I would say in response to the gentleman that the bill contemplates that the same types of procedures which are presently used with respect to the papers of former Presidents would be employed.

Mr. YATES. What provisions are those?

Mr. BRADEMAs. While I do not pretend to be an expert, it is my understanding that the procedures involve judgments of the Archivist of the United States, who is an employee of the Administrator of the General Services Administration.

Mr. YATES. Does the gentleman have some compunctions about leaving this decision to the Administrator of the General Services Administration, he being the one who made the agreement with the President of the United States?

Mr. BRADEMAs. I think the gentleman's point is very well taken. It is precisely because of the apprehension of the members of the committee with respect to that particular point that the bill contains language which directs the Administrator to submit to Congress, within 90 days after the enactment of the measure, regulations which would provide public access to the materials.

Secondly, it is precisely because we shared that apprehension that those regulations would not go into effect without an opportunity for both the House and Senate to review the regulations and to exercise a veto if we disapprove of them.

Mr. YATES. Mr. Speaker, will the gentleman yield for another question?

Mr. BRADEMAs. Of course.

Mr. YATES. Will the Administrator be required to permit the access to the public only to historical materials or all materials?

Mr. BRADEMAs. Only historical materials.

Mr. YATES. Mr. Speaker, I thank the gentleman.

Mr. HANSEN of Idaho. Mr. Speaker, I rise in support of the legislation before us. I want to commend the principal

architect of this legislation, the gentleman from Indiana (Mr. BRADEMAs) for his leadership, the bill in its present form combines the essential features of the original Senate bill, S. 4016, and of H.R. 16906 which was introduced by my distinguished colleague and me a few weeks ago.

The original bill, S. 4016, was well intentioned and responsive to a clearly demonstrated need. Amendments proposed by the Committee on House Administration have considerably improved and strengthened the bill, however. The real value of the legislation before us is that it addresses very difficult issues relating to Presidential papers both in the short term and in the long term.

The need to protect the rights of the public in the papers of former President Nixon while the questions relating to the legal status of the rights and interests in those papers is being resolved emphasizes the urgent need to enact the provisions of title II of the bill, which will enable us to better deal with the same kinds of very broad issues as they relate to the papers of all Presidents. It is especially important that both steps proposed in this bill be taken without delay while there is widespread interest in Congress and by the public in these questions.

Essentially, title II this legislation would establish a 14-member Commission to undertake a comprehensive study of the handling and disposition of papers, tapes and documents of Presidents and other Federal officials. This Commission would be composed of two Members of the House of Representatives, two Senators, three Presidential appointees, appointees of the Chief Justice of the Supreme Court, the Secretary of State, the Secretary of Defense, the Attorney General, the General Services Administrator, a prominent historian and a prominent archivist. The makeup, you can see, would allow input from many varied and knowledgeable sources. The Commission would be required to issue a report to Congress by December 31, 1975, including specific recommendations for legislation and other appropriate rules and procedures relevant to the control, disposition and preservation of such records and documents. Hopefully, the recommendations could be acted on in the 2d session of the 94th Congress.

Why do we need such legislation creating yet another commission to study yet another subject? This legislation is crucial, primarily because in recent years the longstanding tradition of personal ownership of Presidential papers has increasingly clashed with a valid need to have materials of historical significance made available to the public for research and evaluation. Both positions are valid and a clear and reasonable policy must be established to reconcile them. The alternative is a continuation of the present situation where the disposition of public papers is surrounded by confusion and conflict and this is not acceptable.

While this legislation would be considered important at any time, it takes on an added importance now due to the uncertainty concerning the disposition of Mr. Nixon's papers and tapes. Mr.

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Speaker, I believe it is intolerable to allow this dispute over the former President's papers to drag on indefinitely. Can we really afford to let the important questions surrounding Mr. Nixon's situation—and indeed that of other Federal officials—be left to shifting legal opinions and bad precedent? I believe not and I ask my colleagues to take a positive step toward resolving this matter by creating the study commission authorized in this amendment.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I thank the gentleman for yielding to me.

I would like to say, Mr. Speaker, that I concur generally with the remarks of the gentleman from Indiana and the gentleman from Idaho. I was unable to be at the hearings on this legislation—which I think were too brief—because of the time element. I did have several reservations about the legislation but these were chiefly answered by amendments which the majority accepted and language in the report. My reservations concerned the matter of title and the matter of executive privilege as set forth in decision of the Supreme Court on July 24, 1974.

This is not only an attempted short-term solution to a particular problem, but also a long-term solution to a general problem. I hope that the long-term solution will prove successful, as well as the short-term solution prove fair to all concerned. Although I am not sure the matter has had enough study, I do feel the legislation and report has sufficient safeguards so I can support it.

Mr. HANSEN of Idaho. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. GROSS).

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding to me. I take this time to ask the gentleman from Indiana a question or two concerning this whole proceeding. I do not know that I have any substantial opposition to the bill, but precisely what bill are we dealing with?

I was given a bill by the document room, S. 4016, a 6-page bill, to study before the action on the floor today. Now, I find that we are considering another S. 4016, a 23-page bill, which in some respects differs substantially with the bill I was handed by the document room.

I might ask the gentleman also, so that he can include it in his response, if he will, when the report on this bill became available? I could not get a copy of the report on this bill last week. Was the report made available only today?

Mr. BRADEMAS. If the gentleman will yield, I would say, first, with respect to the copy of the bill that was supplied to the gentleman from Iowa by the documents room, I of course have no knowledge of that; and if that is an error, it is an error on the part of the document room, not on the part of the gentleman from Indiana.

Second, with respect to the availability of the report on S. 4016, as amended, the

report (H. Rept. 93-1507) was filed on Wednesday evening, November 27. I assume, therefore, that it was available as soon as the Government Printing Office made it available. I cannot tell the gentleman if it was printed overnight or not, but it was filed in a timely fashion.

Mr. GROSS. Filing it in the House is one thing, and calling it up on the floor of the House is quite another. I do not know whether to blame the document room for having given me the S. 4016 that it did. Which bill are we considering, since the gentleman seems to want to take issue with the distribution of the bill by the document room? Which one does the gentleman now wish to be considered by the House?

Mr. BRADEMAS. The same bill that was reported (H. Rept. 93-1507) on November 27, 1974, with the committee amendment printed in it and which was referred to the Union Calendar (No. 729).

Mr. GROSS. Does the gentleman have any idea why S. 4016, under the date of October 7, 1974, would be distributed as a matter to be considered?

Mr. BRADEMAS. No. I would say some deficiency or maladministration on the part of the House document room.

The SPEAKER pro tempore. Does the gentleman from Indiana desire to yield further time?

Mr. BRADEMAS. Mr. Speaker, I would be glad to yield 3 minutes of my remaining 4 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. Speaker, I would like to take a moment, in yielding to the gentleman from Texas. As a leader on the Committee on Government Operations, I observe that the gentleman has been a particularly concerned Member of this House with respect to the subject matter of this bill. I want to commend the gentleman from Texas for the tenacity and the depth of his concern with what I know he and I both agree is a most important problem.

I will be glad to yield to the gentleman from Texas.

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, I support the basic objective of S. 4016, that is to preserve and protect the papers, tapes and other materials of former President Richard M. Nixon.

Under normal circumstances, such legislation would not be necessary. Recent Presidents have all placed their papers in the public domain, so those engaged in historic research may have full access to the materials. The Government Operations Committee has enacted legislation which establishes Presidential libraries to house such papers.

The Presidential libraries law places an obligation upon the Administrator of General Services to negotiate with a former President not for ownership but over the best means to preserve and protect the papers for the ultimate benefit of the public. If the letter and spirit of this law, as well as past precedent, had been followed, there would be little need for us to legislate here.

However, GSA Administrator Arthur

Sampson, contrary to the requirement of law that he negotiate to preserve and protect these papers, entered into an agreement giving Mr. Nixon the right to destroy or otherwise dispose of the tapes and other papers of his administration.

Because of the nature of certain of these materials, there is a realistic fear many may be destroyed if not preserved in the Government's possession. It is clear, then, that enactment of S. 4016 is essential if vital Presidential materials are to be preserved and ultimately made available to the American public.

There is, however, one aspect of the bill with which I strongly disagree. If the courts determine that some or all of former President Nixon's papers are, in fact, private property, then, taking possession of them by the Federal Government would be in violation of the Constitution unless compensation were rendered the owner. The bill properly seeks to meet this contingency.

I am concerned, however, that S. 4016 obligates the taxpayers to pay Richard Nixon any amount of money which a court determines all the papers to be worth. This "blank check" authority is unfortunate. I do not believe the taxpayer should be irrevocably obligated to turn over what might be unlimited millions of dollars to Mr. Nixon. His disregard for the public good, his use of the Presidency to enrich himself, and his total demeaning of the Office of President should stop him from further public enrichment.

Rather than authorizing blank check payment for all Mr. Nixon's papers should a court hold them to be private property, S. 4016 should authorize Congress to appropriate only such sums of money as they deem in the public interest. This would allow Congress, upon seeking expert opinion, to buy selectively those papers of a truly historic nature while allowing Mr. Nixon to take the rest home to burn, sell or otherwise deprive the American people of as he desires.

Mr. BRADEMAS. I thank my colleague from Texas. I am very sympathetic to his point of view. I would say, in respect of the point he made regarding the authorization of the payment of just compensation, this provision of the bill authorizes no more than what the Constitution would require if a court were to hold that the tapes and other documents are the personal property of Mr. Nixon. The provision was included in the bill to guard against a possible claim that the legislation is unconstitutional because it takes private property without providing just compensation.

Mr. Speaker, I thank the gentleman from Texas for his contribution.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. ABZUG).

(Ms. ABZUG asked and was given permission to revise and extend her remarks.)

Ms. ABZUG. Mr. Speaker, I rise in support of this measure.

Mr. Speaker, this bill is long overdue and I hope that the House will act on it favorably, not only because of the current controversy, but to set a precedent

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if a similar situation should ever arise. We can hope that we will never again have a corrupt administration; but we must protect the public from what we now know can happen.

Title I of S. 4016 would nullify all agreements regarding historical materials between Mr. Nixon and the GSA. It would establish the principle that historic documents produced by a Government official during a term in office are the property of the Government and not the property of the individual.

To me it is outrageous that any President should have been allowed to use such papers for private gain. It is incredible that Mr. Nixon should claim tapes and other documents, as his own, apparently to enable him to make another \$2 million from a book contract—and then be permitted to destroy the records. Under this agreement, if Mr. Nixon should die, the tapes needed for Watergate prosecutions could have been immediately destroyed. Such attempts to conceal evidence provide a second or third level of coverup—and if successful would have thwarted forever the people's right to know. Fortunately, a Federal district court has issued a temporary restraining order preventing such an outcome, pending passage of this bill.

S. 4016 makes the Nixon historical materials available for lawful use by Government agencies and by the public, with priority given to the Watergate special prosecution force. It allows the former President access to the materials, but protects them from destruction.

Title II of the bill sets up a temporary, 17-member Public Documents Commission, including historians and archivists, to study and recommend procedures for the control, disposition, and preservation of historical records. From their recommendations we can expect appropriate legislation to prevent, in future, controversies over the control of Government records.

This bill contains the best provisions of several others offered. Basically it protects the public right to inspect and protect the records of Government officials. Anything less is an abandonment of democratic procedures.

I commend the committee and urge immediate passage of S. 4016.

Mr. McKINNEY. Mr. Speaker, what with President Ford's pardon of former President Nixon, coupled with the announcement of the agreement governing Mr. Nixon's ownership of his Presidential historical materials, I feared the American public would never know the full truth of the Watergate scandals. And since those 2 years were long and agonizing to the Nation, I felt the American people had the right to know the facts, to know the full story. Second-hand accounts simply would not suffice. Hence I introduced legislation requiring the Special Prosecutor to deliver to Congress all materials and reports obtained by his office in the course of his investigation, these documents to be eventually available to the public.

The legislation before us, S. 4016, has basically the same goal as the measure I introduced, that is, insuring that the American public will have the informa-

tion to which they are entitled. The bill, essentially a holding action to preserve the Nixon tapes and papers, requires the Federal Government to take complete possession and control of the tapes and other Presidential materials of Mr. Nixon's tenure. The legislation does not itself determine the question of title but does provide for an expedited procedure under which ownership questions may be resolved. If the courts determine that the materials constitute the private property of former President Nixon, then because these papers are imbued with the public interest, the Federal Government will pay appropriate compensation.

By this means we are insured the preservation of and accessibility to the historical record of these recent momentous events of our Nation's history. I fully support this legislation as I strongly believe it is our responsibility to provide every possible opportunity for each citizen to confront the unscreened facts of the past to be better prepared to adopt the measures and the legislation necessary to stop future Watergates.

This is critical freedom of information legislation and I urge my colleagues to support its passage.

Mr. BINGHAM. Mr. Speaker, I rise in support of S. 4016 which would require the Federal Government to retain custody of all tapes, papers, and documents which constitute historical materials produced by the Nixon White House. Since the day former President Nixon resigned, I have been urging that action be taken by the Congress to insure that the full story of Watergate and the Nixon administration's abuses of power eventually become known. The American people are entitled to know the full story of the past few years, and to be spared the possibility of the resurrection of claims of innocence by the former President.

The legislation before us today should make such full disclosure possible. S. 4106 would prevent the Administrator of the General Services Administration from turning over all the White House files to the former President as he had agreed to do, an action which would have inevitably led to the destruction of much of this historical material. The bill also establishes a National Study Commission to study the disposition and preservation of records and documents of all Federal elected officials. I expect this Commission, as well as the Federal courts, will grapple with the ultimate questions; that is, who owns and who should own Presidential documents, the former President or the American people?

Mr. Speaker, on September 30 I testified before the House Administration Subcommittee on Printing in support of this legislation, and I include that statement at this point in my remarks:

STATEMENT BY THE HONORABLE JONATHAN BINGHAM

Mr. Chairman, the September 7, 1974 agreement on the disposition of Presidential papers between former President Richard Nixon and Mr. Arthur Sampson, Administrator of the General Services Administration, is an appalling abuse of historical precedent. It must not be allowed to take effect. I commend you and your Subcommittee for

the priority consideration you are giving to this urgent matter.

This agreement rests on a mushy foundation of tradition not law. It presumes that Presidential papers, documents and tapes are the personal property of the President during whose tenure of office they are produced. The agreement therefore proposes to maintain these materials in the custody of the Federal government at a storage facility near Mr. Nixon's home in California, while giving him complete control of access to the materials, and the right to withdraw and destroy any and all papers after 3 years, and tape recordings after five years. The tapes would all be destroyed if Mr. Nixon should die before the five-year period had elapsed. While the right of access to the materials through court subpoena is specified in the agreement, no provision is made for third party supervision, which could allow the former President to make undisputed claims that certain subpoenaed evidence simply does not exist.

Since the former President can certainly be expected to resist any court subpoena for these materials, there is a clear and present danger that this agreement may be the final act of coverup in the Watergate affair. It could well prevent the full story of the Nixon Administration's violations of the law and the Constitution from full disclosure, leaving history and the American people with an incomplete understanding of the traumatic events of the last few years and the lessons they must teach. Worse still, since that limited understanding is based on a record that is replete with gaps and unanswered questions, it is quite possible that Richard Nixon will resurrect his claims of innocence in the years ahead and appeal to those who believe he was driven from office by partisan furies and the news media.

In these circumstances, I do not believe the nation should meekly sacrifice the national interest in completing the investigation of Richard Nixon's administration because of historical precedents under which former Presidents have been allowed to retain their papers. I have introduced legislation which has been referred to this Subcommittee which would establish by statute that the official papers of all Federal elected officials are the property of the American people. It would require the Administrator of General Services to obtain all public documents of Presidents, Vice Presidents, Senators and Members of the House within 180 days after they cease to hold office, whereupon these documents would be deposited in the National Archives of the United States. "Public documents" are defined as "books, correspondence, documents, papers, pamphlets, models, pictures, photographs, plats, maps, films, motion pictures, sound recordings, and other objects or materials which shall have been retained by an individual holding elective office under the United States and which were prepared for or originated by such individual in connection with the transaction of public business."

I am convinced that there is ample justification for establishing by statute the principle of public ownership of elected officials' documents. These materials have been prepared by people on government payrolls, on government time, with government materials, pursuant to government business. These materials are clearly part of the official history of the United States and should not be subject to the risks of loss or destruction if placed in private hands. The Library of Congress has the papers of 23 former Presidents, none of which are complete, often because prior custodians destroyed portions of them. Attorney General Saxbe's opinion on the question of ownership leans heavily on the largely unchallenged practice of prior Presidents who have taken their papers with them on leaving the White House. It is important to note, how-

ever, that many Presidents have immediately deposited their papers with the Library of Congress. Moreover, the tradition of private ownership began with George Washington, who apparently took his papers with him principally because the Government had no place to store them at the time. The Library of Congress did not exist in the early days of the Republic, so Washington retained his papers acknowledging that they were "a species of public property sacred in my hands."

Not only is the historical precedent for private ownership of Presidential papers a dubious one, it has never been incorporated in public law. Attorney General Saxbe in his opinion refers to Congressional "recognition," "sanction," and "assumption" of this principle, but nowhere is there a law (much less a provision in the Constitution) which declares that Presidents or other elected officials own the papers and documents they produce while in office. Enactment of legislation such as I have proposed would not reverse any prior legislative action, thereby perhaps taking title from a present owner, but instead would establish by statute public title to documents whose ownership has never been definitely decided before.

In the months since I introduced this legislation, I have considered its ramifications in some detail and have concluded that further study and refinement may well be necessary. There are serious and complex questions involved which are not easily answered. How should access to these materials be allowed and who should establish such rules as are deemed necessary? What protection should be allowed for personal, political or national security matters? Would this legislation impede elected officials in their duties since they might fear early disclosure of embarrassing or confidential information? Might they surreptitiously make efforts to purge their files while still in office? What if the Supreme Court should ultimately decide that former Presidents do have a property right to their papers? Should not a method of compensation then be provided?

Because of these complexities, I support the establishment of a National Study Commission on Federal Records and Documents of Federal Officials, as you proposed, Mr. Chairman, on September 26. Hopefully, such a Commission could study these questions and others, and recommend to the Congress detailed legislation to deal with them.

However, there remains an urgent need for action to prevent the implementation of the pending agreement concerning materials generated in the White House during Richard Nixon's five-and-a-half years in office. That agreement has not been implemented because of objections raised by the Special Prosecutor, and perhaps because the reaction to that agreement in Congress has been devastating. Both House and Senate Appropriations Committees have refused to approve President Ford's request for \$110,000 to implement that agreement by building and maintaining a storage facility in California for the documents. But delay in Congressional action to block the transfer of these Presidential tapes and papers must be avoided.

If immediate action is not taken on legislation establishing the government's proprietary right to these materials, then I urge you to incorporate provisions in the bill you report asserting the Federal government's rights to the Nixon tapes and documents and requiring that they remain in the custody of the government in Washington, D.C. As you know, the Senate Government Operations Committee last week reported legislation to block the papers agreement by directing the Administrator of General Services, notwithstanding any agreement with the former President, to obtain complete pos-

session and control of all tapes and documents as a kind of protective custody for critically important public business. The Committee relies heavily on the Truman precedent, cited by Attorney General Saxbe, under which certain of the Roosevelt papers relating to the prosecution of World War II were retained by President Truman for a limited period of time.

However, the Senate Committee did not take a position on the question of property rights, merely providing for just compensation if a U.S. court of competent jurisdiction should rule that Mr. Nixon was deprived of his rights to the materials involved. Such a court test and authorization for compensation are inevitable and necessary, but a positive Congressional declaration that elected officials' public documents are public property is equally important. Professor Arthur Miller of George Washington University has succinctly stated the case for placing title "where it belongs—in the government." He points out that "If the former President contested that, a judicial ruling could then determine the question of legal title. Even if the courts ruled for Nixon, the papers and tapes could still be taken by eminent domain—provided, of course, that the Constitutional requirement of 'just compensation' was paid. It is highly doubtful that the courts would rule against an express Congressional decision."

This approach would enable the Congress to overturn the Nixon-Sampson agreement which is so clearly contemptuous of the national interest, and to preserve the White House tapes and documents. It would also allow the Congress time to consider the recommendations of the Commission on Federal Documents. I urge your Committee to take speedy action along these lines.

Mr. BRADEMAS. Mr. Speaker, I have no further requests for time.

Mr. HANSEN of Idaho. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the Senate bill S. 4016, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

HARRY S. TRUMAN MEMORIAL SCHOLARSHIP ACT

Mr. O'HARA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 17481) to establish the Harry S. Truman memorial scholarship program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 17481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Harry S. Truman Memorial Scholarship Act".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that—because a high regard for the public trust and a lively exercise of political talents were outstanding characteristics of the thirty-third President of the United States;

because a special interest of the man from Independence in American history and a broad knowledge and understanding of the American political and economic system gained by study and experience in county and National Government culminated in the

leadership of America remembered for the quality of his character, courage, and commonsense;

because of the desirability of encouraging young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government, it is especially appropriate to honor former President Harry S. Truman through the creation of a perpetual education scholarship program to develop increased opportunities for young Americans to prepare and pursue careers in public service.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Board" means the Board of Trustees of the Harry S. Truman Scholarship Foundation;

(2) "Foundation" means the Harry S. Truman Scholarship Foundation;

(3) "fund" means the Harry S. Truman Memorial Scholarship Fund;

(4) "institution of higher education" means any such institution as defined by section 1201(a) of the Higher Education Act of 1965;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; and

(6) "Secretary" means the Secretary of the Treasury.

SEC. 4. The Harry S. Truman Scholarship Program as authorized by this Act shall be the sole Federal memorial to President Harry S. Truman.

ESTABLISHMENT OF THE HARRY S. TRUMAN SCHOLARSHIP PROGRAM

SEC. 5. (a) There is established, as an independent establishment of the executive branch of the United States Government, the Harry S. Truman Scholarship Foundation.

(b) (1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) two Members of the Senate, one from each political party, to be appointed by the President of the Senate;

(B) two Members of the House of Representatives, one from each political party, to be appointed by the Speaker;

(C) eight members, not more than four of whom shall be of the same political party, to be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, one a chief executive officer of a city or county, one a member of a Federal court, one a member of a State court, one a person active in postsecondary education, and three representatives of the general public; and

(D) the Commissioner of Education or his designate, who shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(c) The term of office of each member of the Board shall be six years; except that (1) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

SCHOLARSHIPS

SEC. 6. (a) The Foundation is authorized to award scholarships to persons who demon-